



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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October 16, 2003

CERTIFIED RETURN RECEIPT  
7099 3400 0016 8895 5958

Johnny Pappas, Sr. Environmental Engineer  
Plateau Mining Corporation  
P.O. Box 30  
Helper, Utah 84526-0030

Re: Proposed Assessment for State Violation No. N03-49-3-1, Plateau Mining Corporation,  
Star Point Mine, C/007/0006, Outgoing File

Dear Mr. Pappas:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Karl Houskeeper, on September 4, 2003. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

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**If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

Daron R. Haddock  
Assessment Officer

Enclosure

cc: OSM Compliance Report  
Vickie Southwick, DOGM  
Price Field Office

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**WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Plateau Mining Corporation/ Star Point Mine  
PERMIT C/007/006 NOV # N03-49-3-1 VIOLATION 1 of 1

ASSESSMENT DATE October 14, 2003

ASSESSMENT OFFICER Daron R. Haddock

**I. HISTORY (Max. 25 pts.)**

- A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

1 point for each past violation, up to one (1) year  
5 points for each past violation in a CO, up to one (1) year  
No pending notices shall be counted

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Either A or B)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? (A) Event

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

***Erosion and attendant water pollution.***

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

*The Event actually occurred. The Inspector indicated that erosional channels occurred on the refuse pile and that siltation structures failed.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS 12**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *Because of improper maintenance, storm water was allowed to cut several erosional channels on the refuse pile and displace sediment into sediment basins and culverts. Although some siltation structures failed the event was contained to the site and sediment reported to the pond. Thus no offsite impact occurred. Because actual damage was contained to the site and there was only potential for offsite impact the assessed points are in the mid to lower portion of the range.*

**B. HINDRANCE VIOLATION (Max 25 pts.)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_  
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

**TOTAL SERIOUSNESS POINTS ( A or B ) 32**

**III. NEGLIGENCE (Max 30 pts.)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

**ASSIGN NEGLIGENCE POINTS 15**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

*Maintenance of siltation structures and diversions is within the power of the permittee. Failure to maintain these structures shows indifference to the regulations.*

**IV. GOOD FAITH (Max 20 pts.)**

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?  
IF SO--EASY ABATEMENT

Easy Abatement Situation

C	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
C	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
C	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

\*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

C	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
C	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
C	Extended Compliance	0
	(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)	
	(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *The Permittee did not have equipment on site to complete the abatement, but had to contract the work done. The Permittee made contact with a contractor the day of the inspection. Also since another entity (SCA) is operating at the site, the Permittee had to work with them to complete the abatement. A phone conversation with the inspector revealed that the abatement was completed a week prior to the original abatement due date. The Permittee was diligent in completing the abatement in a timely manner even though it was difficult to make the arrangements.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>32</u>
III.	TOTAL NEGLIGENCE POINTS <u>15</u>
IV.	TOTAL GOOD FAITH POINTS <u>-15</u>
	TOTAL ASSESSED POINTS <u>32</u>
TOTAL ASSESSED FINE <u>\$ 440</u>	

cc: Price Field Office  
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## EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Plateau Mining Corp/Star Point Mine  
Permit #: C/007/006

NOV # N03-49-3-1  
Violation # 1 of 1

### A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation**. Mark and explain each event.

- |                                     |    |  |
|-------------------------------------|----|--|
| <input type="checkbox"/>            | a. | Activity outside the approved permit area.                     |
| <input type="checkbox"/>            | b. | Injury to the public (public safety).                          |
| <input type="checkbox"/>            | c. | Damage to property.  |
| <input type="checkbox"/>            | d. | Conducting activities without appropriate approvals.           |
| <input checked="" type="checkbox"/> | e. | Environmental harm.  |
| <input checked="" type="checkbox"/> | f. | Water pollution.   |
| <input type="checkbox"/>            | g. | Loss of reclamation/revegetation potential.                    |
| <input type="checkbox"/>            | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/>            | i. | No event occurred as a result of the violation.                |
| <input checked="" type="checkbox"/> | j. | Other.   |

Explanation: Failure to maintain siltation structures and diversions associated with the refuse pile. Several siltation structures are completely full and over topped. At least two culverts are completely covered with sediment. No offsite impact, since the material moved from the diversions and sediment basins into the sediment pond. Failure to maintain the siltation structures and diversions can cause the sediment pond to discharge, fill with sediment, and possibly fail.

2. Has the event occurred? Yes

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: Sediment basin S16 is completely full and over topped. Sediment basin S17 is full. Silt fence structures below S16 are full of sediment material and/or side cut. Culverts inlets 16C and 16D are completely covered by sediment. Drop inlet below S17 is completely covered by sediment. Several erosional channels on the refuse pile and where the siltation structures failed.



3. Did any damage occur as a result of the violation? Yes

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: Several erosional channels on the refuse pile and where the siltation structures failed. The storm event was contained onsite. No off site impact occurred.

**B. DEGREE OF FAULT** (Check the statements which apply to the violation and discuss).

☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: \_\_\_\_\_

☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: Failure to maintain the siltation structures and diversions associated with the refuse pile in a timely manner.

☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: \_\_\_\_\_

☒ Was the operator in violation of a specific permit condition?

Explanation: Failure to maintain the siltation structures and diversions associated with the refuse pile.

☐ Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation:

Maintaining Sediment Control (N97-26-3-4 #1) on 7/22/97.

Prevent Erosion (N97-26-3-4 #2) on 7/22/97.

Diversions (N97-26-3-4 #4) on 7/22/97.

**C. GOOD FAITH**

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: October 6, 2003 is the abatement date. Plateau Mining Corporation (PMC) has no equipment on site. (PMC) made contact with a contractor during the inspection and met with them later that day (9/4/03). The contractor is supposed to mobilize on 9/8/03. It is anticipated that the work will be done prior to the abatement date.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: The mine is in final reclamation. The refuse pile has been sold to Sunnyside Cogeneration Associates (SCA). A permit is in the process of being issued to SCA (C/007/042). Plateau Mining Corporation (PMC) has no equipment on site. (PMC) made contact with a contractor during the inspection and met with them later that day (9/4/03). The contractor is supposed to mobilize on 9/8/03.

3. Was the submission of plans prior to physical activity required by this NOV / CO? No If yes, explain.

Explanation: \_\_\_\_\_

Karl R. Houskeeper  
Authorized Representative

\_\_\_\_\_  
Signature

September 8, 2003  
Date